

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

**FINDINGS AND RECOMMENDATION OF THE MAGISTRATE JUDGE
UPON A PLEA OF GUILTY BY DEFENDANT THOMAS FRANCO**

TO: THE HONORABLE RUDY LOZANO, JUDGE,
UNITED STATES DISTRICT COURT

Upon Defendant Thomas Franco's request to enter a plea of guilty pursuant to Rule 11 of the Federal Rules of Criminal Procedure, this matter came for hearing before Magistrate Judge Paul R. Cherry, on November 7, 2008, with the consent of Defendant Thomas Franco, counsel for Defendant Thomas Franco, and counsel for the United States of America.

The hearing on Defendant Thomas Franco's plea of guilty was in full compliance with Rule 11, Federal Rules of Criminal Procedure, before the Magistrate Judge in open court and on the record.

In consideration of that hearing and the statements made by Defendant Thomas Franco under oath on the record and in the presence of counsel, the remarks of the Assistant United States Attorney and of counsel for Defendant Thomas Franco,

I FIND as follows:

(1) that Defendant Thomas Franco understands the nature of the charge against him to which the plea is offered:

(2) that Defendant Thomas Franco understands his right to trial by jury, to persist in his plea of not guilty, to the assistance of counsel at trial, to confront and cross-examine adverse witnesses, and

his right against compelled self-incrimination;

(3) that Defendant Thomas Franco understands what the maximum possible sentence is, including the effect of the supervised release term, and Defendant Thomas Franco understands that the sentencing guidelines apply and that the Court may depart from those guidelines under some circumstances;

(4) that the plea of guilty by Defendant Thomas Franco has been knowingly and voluntarily made and is not the result of force or threats or of promises;

(5) that Defendant Thomas Franco is competent to plead guilty;

(6) that Defendant Thomas Franco understands that his answers may later be used against him in a prosecution for perjury or false statement;

(7) that there is a factual basis for Defendant Thomas Franco's plea; and further,

I RECOMMEND that the Court accept Thomas Franco's plea of guilty to the offense charged in Count 2 of the Indictment and that Defendant Thomas Franco be adjudged guilty of the offense charged in Count 2 of the Indictment and have sentence imposed. A Presentence Report has been ordered. Should this Report and Recommendation be accepted and Defendant Thomas Franco be adjudged guilty, sentencing will be held on January 21, 2009, at 1:30 p.m. in the Hammond Division, before Judge Rudy Lozano. Objections to the Findings and Recommendation are waived unless filed and served within ten (10) days. 28 U.S.C. § 636(b)(1)(B).

So ORDERED this 7th day of November, 2008.

s/ Paul R. Cherry

MAGISTRATE JUDGE PAUL R. CHERRY
UNITED STATES DISTRICT COURT

cc: All counsel of record
Honorable Rudy Lozano